

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-835

DATE OF INTRODUCTION:

January 8, 2002

SPONSOR:

Assemblyman Connors

DATE OF RECOMMENDATION:

February 26, 2002

IDENTICAL BILL: S-251

COMMITTEE:

Assembly Appropriations Committee

DESCRIPTION:

The Bill provides an exemption from sales and use tax on the purchase of certain protective bicycle and skating helmets, and other protective headgear.

ANALYSIS:

This Bill is proposed to provide a tax exemption on the purchase of certain protective bicycle and skating helmets and other protective headgear meeting standards prescribed by or pursuant to laws requiring operators of bicycles, motorized bicycles, roller skates, and skateboards to wear such headgear. The problem with this proposed legislation is that the language is too broad. It is not clear whether the exemption applies only to helmets or headgear that is required for children under the age of 14 as required by law, or if it includes helmets required for motorcycle operators who are also required to wear protective headgear by law. Such ambiguity would lead to subjective interpretation rendering the bill difficult to administer and enforce. Without clear definitions on what helmets are exempt and for whom the exemption is intended to benefit, vendors would have the responsibility of determining which types of "protective headgear" would qualify for exemption. In addition, without more specific guidelines, there would be no indication whether a helmet was indeed being purchased for a child under the age of 14, or for the specific sporting or recreational uses enumerated in the bill. Being unable to segregate and identify exempt purchases could result in abusive and fraudulent practices.

An exemption from sales tax will not guarantee compliance with the helmet laws or increase safety awareness by those who engage in dangerous activities that may require a helmet. Consumers who can only afford to purchase the basic helmets in order to comply with the safety laws will only receive a minimal benefit if the tax was exempt on headgear purchases. Those who are able to purchase more expensive, luxurious helmets will receive a far better benefit than those who can only afford the inexpensive ones will.

Relief from sales tax will not have any impact on consumers' ability to purchase safety helmets, or impact the type of protective headgear they choose. Lower-income families will not be more encouraged or relieved of a financial burden if sales tax is not imposed on the purchase of protective headgear for children.

The bill carries negative public policy implications. Consumers of safety products should not have to given a financial incentive in order to comply with a public mandate issued as a protective measure. Individuals voluntarily choose to participate in activities that require the use of protective headgear. The State should not have to bear the burden of subsidizing sports and recreational activities that require higher standard safety measures to be taken by their participants.

Enacting special exemptions for purchases of socially desirable merchandise tends to lead to an increased demand for similar exemptions for other useful, necessary, or politically favored purchases. Such piecemeal small exemptions alter the broad-based nature of the sales and use tax, and reduce its credibility as a fairly administered and easy to understand tax. The amount that an individual taxpayer would save from an exemption on purchases of safety helmets and other protective headgear, would be miniscule compared to the cumulative loss of revenue the State would suffer. If the proposed exemption were granted, the revenue currently raised by the imposition of tax on these safety items would have to be raised from other revenue sources.

RECOMMENDATION: The Commission does not recommend enactment of this Bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 8

COMMISSION MEMBERS ABSTAINING: 0

(cb)